Supreme Court, U. S.
FILED
JAN 31 1975
MICHAEL RODAK, JR., CLERK

In the

Supreme Court of the United States

No. 74-435

ROBERT G. WARD

vs.

PHILADELPHIA ELECTRIC COMPANY

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR A WRIT OF CERTIORARI

ROBERT G. WARD
In Propria Persona

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ADDITIONAL REASONS FOR THE ALLOWANCE OF A WRIT

Under the provisions of this Court Rule 58 (2), the petitioner requests this Court to rehear its Order of December 9, 1974, denying petitioner's Petition for a Writ of Certiorari.

The petition, in addition to the previously alleged reasons in his original Petition for a Writ of Certiorari, has been denied effective assistance of counsel and deprived of property rights as a result thereof.

The present factual dispute should have been settled by a jury trial. The petitioner is not asking this Court to settle or decide on factual dispute as set forth in respondent's previous Answer. Petition is merely alleging that what factual dispute there was should have been resolved by a jury trial, which has been consistently requested by the petitioner.

Respondent contends in his Answer that there were no federal questions raised when, in fact, there were numerous federal questions raised in petitioner's initial petition and now in the present Petition for rehearing. There has been a violation of the Seventh Amendment (right to a jury trial to resolve the civil liabilities), and a violation of value process and equal protection of the laws.

The jury trial issue was raised by the petitioner before the hearing judge, the Senior Court of Pennsylvania and Supreme Court of Pennsylvania.

Petitioner's counsel has prejudiced his property rights without authorization from the Petition and the hearing

judge has ratified that action. An attorney has no power to release a client's cause of action or to surrender substantial rights in whole or in part or compromise or settle his client's litigation without special authority to do so. In this case, the petitioner did not give such authority and, therefore, the petitioner's attorney's agreement to accept less than the amount that the Petitioner was willing to accept would not affectuate a settlement prior to trial.

89 *C.J.S. "Trials"* §577 (1955). Cited in support of the emphasized portion of this statement are the following cases: *Empire Steel Bldg. Co. v. Harvey Machine Co.*, 122 Cal. App. 2d 411, 265 P.2d 32; *Rosenfield v. Vosper*, 45 Cal. App. 2d 365, 114 P.2d 29; *A. & C. Adjusters, Inc. v. Bragg*, 205 A.2d 602 (D.C. App.); *Western Contracting Corp. v. State Highway Dept.*, 123 Ga. App. 331, 181 S.E. 2d 690; *Smith v. Ford Motor Co.*, 38 App. Div. 852, 330 N.Y.S. 2d 182.

Curtis v. Lothar, ... U.S. ....., 42 U.S.L.W. 4259 (U.S. Feb. 20, 1974), held that the Seventh Amendment entitles either party to demand a jury trial in an action for damages in the federal courts under the Civil Rights Act of 1968, which authorizes private plaintiffs to bring civil actions to redress violations of the Act's fair housing provisions. The Court held that a damage action under the Act sounded basically in tort, and was analogous to a number of tort actions recognized at common law. Moreover, the relief sought by the plaintiffs — actual and punitive damages — was a traditional form of relief offered in the courts of law. The Court noted the "force of the petitioner's policy arguments" concerning the delay inherent in jury trials for these causes, but concluded that "these considerations are

insufficient to overcome the clear command of the Seventh Amendment."

In *Pennell v. Southall Realty*, ... U.S. ...., 42 U.S.L.W. 4959 (U.S. April 24, 1974), the Court again emphasized the fundamental importance of Seventh Amendment rights when it held that the Amendment entitles either party to demand a jury trial in an action to recover real property in the District of Columbia. The Court relied upon *Curtis v. Lothar, supra,* in concluding that the Seventh Amendment "requires trial by jury in actions unheard of at common law, provided that the action involves rights and remedies of the sort traditionally enforced in an action at law, rather than in an action at equity or admiralty."

WHEREFORE, ROBERT G. WARD, respectfully requests for all of the foregoing reasons, this Honorable Court grant the Petition for Rehearing of Order Denying Petition for a Writ of Certiorari.

Respectfully submitted,

ROBERT G. WARD
In Propria Persona